

Senate Engrossed

State of Arizona  
Senate  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 165

# SENATE BILL 1191

AN ACT

AMENDING SECTIONS 32-1451, 32-1451.01, 32-1744 AND 32-1746, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3206; RELATING TO HEALTH PROFESSIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-1451, Arizona Revised Statutes, is amended to read:

32-1451. Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice requirements

A. The board on its own motion may investigate any evidence that appears to show that a doctor of medicine is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. On written request of a complainant the board shall review a complaint that has been administratively closed by the executive director and take any action it deems appropriate. Any person may, and a doctor of medicine, the Arizona medical association, a component county society of that association and any health care institution shall, report to the board any information that appears to show that a doctor of medicine is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. The board or the executive director shall notify the doctor as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. If requested, the board shall not disclose the name of a person who supplies information regarding a licensee's drug or alcohol impairment. It is an act of unprofessional conduct for any doctor of medicine to fail to report as required by this section. The board shall report any health care institution that fails to report as required by this section to that institution's licensing agency.

B. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if the privileges of a doctor to practice in that health care institution are denied, revoked, suspended or limited because of actions by the doctor that appear to show that the doctor is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of medicine, along with a general statement of the reasons, including patient chart numbers, that led the health care institution to take the action. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if a doctor under investigation resigns or if a doctor resigns in lieu of disciplinary action by the health care institution. Notification shall include a general statement of the reasons for the resignation, including patient chart numbers. The board shall inform all appropriate health care institutions in this state as defined in section 36-401 and the Arizona health care cost containment system administration of a resignation, denial, revocation, suspension or limitation, and the general reason for that action, without divulging the name of the reporting health

1 care institution. A person who reports information in good faith pursuant  
2 to this subsection is not subject to civil liability.

3 C. The board or, if delegated by the board, the executive director  
4 shall require any combination of mental, physical or oral or written medical  
5 competency examinations and conduct necessary investigations including  
6 investigational interviews between representatives of the board and the  
7 doctor to fully inform itself with respect to any information filed with the  
8 board under subsection A of this section. These examinations may include  
9 biological fluid testing. The board or, if delegated by the board, the  
10 executive director may require the doctor, at the doctor's expense, to  
11 undergo assessment by a board approved rehabilitative, retraining or  
12 assessment program.

13 D. If the board finds, based on the information it receives under  
14 subsections A and B of this section, that the public health, safety or  
15 welfare imperatively requires emergency action, and incorporates a finding  
16 to that effect in its order, the board may restrict, limit or order a summary  
17 suspension of a license pending proceedings for revocation or other action.  
18 If the board takes action pursuant to this subsection it shall also serve the  
19 licensee with a written notice that states the charges and that the licensee  
20 is entitled to a formal hearing before the board or an administrative law  
21 judge within sixty days.

22 E. If, after completing its investigation, the board finds that the  
23 information provided pursuant to subsection A of this section is not of  
24 sufficient seriousness to merit disciplinary action against the license of  
25 the doctor, the board or a board committee may take either of the following  
26 actions:

27 1. Dismiss if, in the opinion of the board, the information is  
28 without merit.

29 2. File an advisory letter. The licensee may file a written response  
30 with the board within thirty days after receiving the advisory letter.

31 F. If the board finds that it can take rehabilitative or disciplinary  
32 action without the presence of the doctor at a formal interview it may enter  
33 into a consent agreement with the doctor to limit or restrict the doctor's  
34 practice or to rehabilitate the doctor, protect the public and ensure the  
35 doctor's ability to safely engage in the practice of medicine. The board may  
36 also require the doctor to successfully complete a board approved  
37 rehabilitative, retraining or assessment program.

38 G. ~~If requested,~~ The board shall not disclose the name of the person  
39 who provided information regarding a licensee's drug or alcohol impairment  
40 or the name of the person who files a complaint if that person requests  
41 anonymity.

42 H. If after completing its investigation the board believes that the  
43 information is or may be true, it may request a formal interview with the  
44 doctor. If the doctor refuses the invitation for a formal interview or  
45 accepts and the results indicate that grounds may exist for revocation or

1 suspension of the doctor's license for more than twelve months, the board  
2 shall issue a formal complaint and order that a hearing be held pursuant to  
3 title 41, chapter 6, article 10. If after completing a formal interview the  
4 board finds that the protection of the public requires emergency action, it  
5 may order a summary suspension of the license pending formal revocation  
6 proceedings or other action authorized by this section.

7 ~~1. At least ten business days before the formal interview conducted~~  
8 ~~pursuant to this section, the board shall notify the doctor and, at the~~  
9 ~~doctor's request, the board shall provide the doctor with the information~~  
10 ~~listed in this subsection. The doctor and the doctor's attorney may not~~  
11 ~~release any information obtained under this section to any other person. The~~  
12 ~~board shall provide the following information to the doctor or the doctor's~~  
13 ~~attorney:~~

14 ~~1. Any review conducted by an expert or consultant providing an~~  
15 ~~evaluation of or opinion on the allegations.~~

16 ~~2. Any records on the patient obtained by the board from other health~~  
17 ~~care providers.~~

18 ~~3. The results of any evaluations or tests of the doctor conducted at~~  
19 ~~the board's direction.~~

20 ~~4. Any other factual information that the board will use in making its~~  
21 ~~determination.~~

22 ~~3. 1. If after completing the formal interview the board finds the~~  
23 ~~information provided under subsection A of this section is not of sufficient~~  
24 ~~seriousness to merit suspension for more than twelve months or revocation of~~  
25 ~~the license, it may take the following actions:~~

26 ~~1. Dismiss if, in the opinion of the board, the complaint is without~~  
27 ~~merit.~~

28 ~~2. File an advisory letter. The licensee may file a written response~~  
29 ~~with the board within thirty days after the licensee receives the advisory~~  
30 ~~letter.~~

31 ~~3. File a letter of reprimand.~~

32 ~~4. Issue a decree of censure. A decree of censure is an official~~  
33 ~~action against the doctor's license and may include a requirement for~~  
34 ~~restitution of fees to a patient resulting from violations of this chapter~~  
35 ~~or rules adopted under this chapter.~~

36 ~~5. Fix a period and terms of probation best adapted to protect the~~  
37 ~~public health and safety and rehabilitate or educate the doctor concerned.~~  
38 ~~Probation may include temporary suspension for not to exceed twelve months,~~  
39 ~~restriction of the doctor's license to practice medicine, a requirement for~~  
40 ~~restitution of fees to a patient or education or rehabilitation at the~~  
41 ~~licensee's own expense. If a licensee fails to comply with the terms of~~  
42 ~~probation the board shall serve the licensee with a written notice that~~  
43 ~~states that the licensee is subject to a formal hearing based on the~~  
44 ~~information considered by the board at the formal interview and any other~~  
45 ~~acts or conduct alleged to be in violation of this chapter or rules adopted~~

1 by the board pursuant to this chapter including noncompliance with the term  
2 of probation, a consent agreement or a stipulated agreement.

3 6. Enter into an agreement with the doctor to restrict or limit the  
4 doctor's practice or medical activities in order to rehabilitate, retrain or  
5 assess the doctor, protect the public and ensure the physician's ability to  
6 safely engage in the practice of medicine.

7 ~~K.~~ J. If the board finds that the information provided in subsection  
8 A or I of this section warrants suspension or revocation of a license issued  
9 under this chapter, it shall initiate formal proceedings pursuant to title  
10 41, chapter 6, article 10.

11 ~~L.~~ K. In a formal interview pursuant to subsection H of this section  
12 or in a hearing pursuant to subsection ~~K~~ J of this section, the board in  
13 addition to any other action may impose a civil penalty in the amount of not  
14 less than one thousand dollars nor more than ten thousand dollars for each  
15 violation of this chapter or a rule adopted under this chapter.

16 ~~M.~~ L. An advisory letter is a public document.

17 ~~N.~~ M. Any doctor of medicine who after a formal hearing is found by  
18 the board to be guilty of unprofessional conduct, to be mentally or  
19 physically unable safely to engage in the practice of medicine or to be  
20 medically incompetent is subject to censure, probation as provided in this  
21 section, suspension of license or revocation of license or any combination  
22 of these, including a stay of action, and for a period of time or permanently  
23 and under conditions as the board deems appropriate for the protection of the  
24 public health and safety and just in the circumstance. The board may charge  
25 the costs of formal hearings to the licensee who it finds to be in violation  
26 of this chapter.

27 ~~O.~~ N. If the board acts to modify any doctor of medicine's  
28 prescription writing privileges the board shall immediately notify the state  
29 board of pharmacy of the modification.

30 ~~P.~~ O. If the board, during the course of any investigation,  
31 determines that a criminal violation may have occurred involving the delivery  
32 of health care, it shall make the evidence of violations available to the  
33 appropriate criminal justice agency for its consideration.

34 ~~Q.~~ P. The board may divide into review committees of not less than  
35 three members including a public member. The committees shall review  
36 complaints not dismissed by the executive director and may take the following  
37 actions:

38 1. Dismiss the complaint if a committee determines that the complaint  
39 is without merit.

40 2. Issue an advisory letter. The licensee may file a written  
41 response with the board within thirty days after the licensee receives the  
42 advisory letter.

1           3. Conduct a formal interview pursuant to subsection H of this  
2 section. This includes initiating formal proceedings pursuant to  
3 subsection K- J of this section and imposing civil penalties pursuant to  
4 subsection L- K of this section.

5           4. Refer the matter for further review by the full board.

6           ~~R.~~ Q. Pursuant to sections 35-146 and 35-147, the board shall  
7 deposit all monies collected from civil penalties paid pursuant to this  
8 chapter in the state general fund.

9           ~~S.~~ R. Notice of a complaint and hearing is effective by a true copy  
10 of it being sent by certified mail to the doctor's last known address of  
11 record in the board's files. Notice of the complaint and hearing is complete  
12 on the date of its deposit in the mail. The board shall begin a formal  
13 hearing within one hundred twenty days of that date.

14           ~~T.~~ S. A physician who submits an independent medical examination  
15 pursuant to an order by a court is not subject to a complaint for  
16 unprofessional conduct unless a complaint is made or referred by a court to  
17 the board. For purposes of this subsection, "independent medical  
18 examination" means a professional analysis of medical status based on a  
19 person's past and present physical and psychiatric history and conducted by  
20 a licensee or group of licensees on a contract basis for a court.

21           ~~U.~~ T. The board may accept the surrender of an active license from  
22 a person who admits in writing to any of the following:

- 23           1. Being unable to safely engage in the practice of medicine.
- 24           2. Having committed an act of unprofessional conduct.
- 25           3. Having violated this chapter or a board rule.

26           ~~V.~~ U. In determining the appropriate disciplinary action under this  
27 section, the board shall consider all previous nondisciplinary and  
28 disciplinary actions against a licensee.

29           Sec. 2. Section 32-1451.01, Arizona Revised Statutes, is amended to  
30 read:

31           32-1451.01. Right to examine and copy evidence; witnesses;  
32                               documents; testimony; representation

33           A. In connection with the investigation by the board on its own  
34 motion, or as the result of information received pursuant to section 32-1451,  
35 subsection A, the board or its duly authorized agents or employees at all  
36 reasonable times may examine and copy any documents, reports, records or  
37 other physical evidence of the person it is investigating or that is in  
38 possession of any hospital, clinic, physician's office, laboratory, pharmacy,  
39 public or private agency, health care institution as defined in section  
40 36-401 and health care provider and that relates to medical competence,  
41 unprofessional conduct or the mental or physical ability of a licensee to  
42 safely practice medicine.

43           B. For the purpose of all investigations and proceedings conducted by  
44 the board:

1           1. The board on its own initiative or on application of any person  
2 involved in the investigation may issue subpoenas to require the attendance  
3 and testimony of witnesses or to demand the production for examination or  
4 copying of documents or any other physical evidence that relates to medical  
5 competence, unprofessional conduct or the mental or physical ability of a  
6 licensee to safely practice medicine. Within five days after a person is  
7 served with a subpoena that person may petition the board to revoke, limit  
8 or modify the subpoena. The board shall do so if in its opinion the evidence  
9 required does not relate to unlawful practices covered by this chapter, is  
10 not relevant to the charge that is the subject matter of the hearing or  
11 investigation or does not describe with sufficient particularity the physical  
12 evidence whose production is required. Any member of the board or any agent  
13 designated by the board may administer oaths or affirmations, examine  
14 witnesses and receive evidence.

15           2. Any person appearing before the board may be represented by  
16 counsel.

17           3. On application by the board or by the person subpoenaed, the  
18 superior court may issue an order to either:

19           (a) Require the subpoenaed person to appear before the board or the  
20 duly authorized agent to produce evidence relating to the matter under  
21 investigation.

22           (b) Revoke, limit or modify the subpoena if in the court's opinion the  
23 evidence demanded does not relate to unlawful practices covered by this  
24 chapter, is not relevant to the charge which is the subject matter of the  
25 hearing or investigation or does not describe with sufficient particularity  
26 the evidence whose production is required.

27           C. Patient records, including clinical records, medical reports,  
28 laboratory statements and reports, any file, film, other report or oral  
29 statement relating to diagnostic findings or treatment of patients, any  
30 information from which a patient or the patient's family might be identified  
31 or any information received and records or reports kept by the board as a  
32 result of the investigation procedure outlined in this chapter are not  
33 available to the public. ~~At the doctor's request, the board shall provide~~  
34 ~~to the doctor and the doctor's attorney the information listed in section~~  
35 ~~32-1451. A person who obtains information from the board pursuant to this~~  
36 ~~subsection shall not release it to any other person or entity or use it in~~  
37 ~~any proceeding or action except the formal interview and any administrative~~  
38 ~~proceedings or appeals related to the formal interview. The board may charge~~  
39 ~~the physician or the physician's attorney for the cost of the information~~  
40 ~~listed in section 32-1451 up to the fee for making a copy of each page as~~  
41 ~~prescribed by section 12-284, subsection A.~~

42           D. This section and any other law making communications between a  
43 physician and a physician's patient privileged does not apply to  
44 investigations or proceedings conducted pursuant to this chapter. The board  
45 and its employees, agents and representatives shall keep in confidence the

1 names of any patients whose records are reviewed during the course of  
2 investigations and proceedings pursuant to this chapter.

3 E. Hospital records, medical staff records, medical staff review  
4 committee records and testimony concerning these records and proceedings  
5 related to the creation of these records are not available to the public,  
6 shall be kept confidential by the board and are subject to the same  
7 provisions concerning discovery and use in legal actions as are the original  
8 records in the possession and control of hospitals, their medical staffs and  
9 their medical staff review committees. The board shall use such records and  
10 testimony during the course of investigations and proceedings pursuant to  
11 this chapter.

12 F. The court may find a person who does not comply with a subpoena  
13 issued pursuant to this section in contempt of court.

14 Sec. 3. Section 32-1744, Arizona Revised Statutes, is amended to read:

15 32-1744. Board investigations; duty to report violations;  
16 hearing; decision of board; informal settlement  
17 conference

18 A. The board on its own motion shall investigate any evidence that  
19 appears to show that a licensee may be guilty of a violation of section  
20 32-1743. Any person may report to the board information the person may have  
21 that appears to show that a licensee may be guilty of unprofessional conduct  
22 or of practice without regard for the safety and welfare of the public. A  
23 person who reports or provides information to the board in good faith is not  
24 subject to civil damages as a result, and the name of the person reporting  
25 shall not be disclosed unless the information is necessary to conduct an  
26 investigation or is essential to disciplinary proceedings conducted pursuant  
27 to this section.

28 B. Except as provided in subsection E- D of this section, if in the  
29 opinion of the board it appears that information provided under subsection  
30 A of this section may be accurate and a violation of this chapter, the board  
31 shall request an informal interview with the licensee before proceeding to  
32 a formal hearing. If the licensee refuses an invitation for an informal  
33 interview, or if the licensee accepts the invitation and if the results of  
34 the interview indicate suspension or revocation of license may be in order,  
35 a complaint shall be issued and a formal hearing held pursuant to title 41,  
36 chapter 6, article 10. If at the informal interview the board finds the  
37 information provided under subsection A of this section is accurate but not  
38 of sufficient seriousness to merit suspension exceeding thirty days or  
39 revocation of the license, it may take any or all of the following actions:

40 1. Issue a decree of censure or written reprimand.

41 2. Fix a period and terms of probation best adapted to protect the  
42 public health and safety and rehabilitate the licensee. Probation may  
43 include a requirement for a refund of fees and charges to professional  
44 services clients resulting from services performed in violation of this  
45 chapter or rules adopted pursuant to this chapter, restriction of a license



1 to practice or temporary suspension not to exceed thirty days. Failure to  
2 comply with probation is cause for filing a complaint and holding a formal  
3 hearing pursuant to title 41, chapter 6, article 10.

4 3. Impose a civil penalty of not more than one thousand dollars for  
5 each violation of this chapter.

6 ~~C. At least ten business days before the informal interview conducted~~  
7 ~~pursuant to this section, at the licensee's request, the board shall provide~~  
8 ~~the licensee or the licensee's attorney with the following information:~~

9 ~~1. Any review conducted by an expert or consultant who provided an~~  
10 ~~evaluation of or opinion on the allegations.~~

11 ~~2. Any patient records obtained by the board from other health care~~  
12 ~~providers.~~

13 ~~3. The results of any evaluation or test of the licensee conducted at~~  
14 ~~the board's direction.~~

15 ~~4. Any other factual information that the board will use in making its~~  
16 ~~determination.~~

17 ~~D. C.~~ C. If the board determines that a reasonable basis exists to  
18 believe that a violation of this chapter or rules adopted pursuant to this  
19 chapter has occurred and the violation is not sufficiently serious to warrant  
20 disciplinary action, it may send a letter of concern to the licensee. The  
21 letter of concern shall advise the licensee of the possible violation and the  
22 board's decision not to initiate proceedings. If violations occur after the  
23 board sends a letter of concern, the board may initiate proceedings on all  
24 violations, including the violation that was the subject of the letter of  
25 concern.

26 ~~E. D.~~ D. If in the opinion of the board it appears that information  
27 provided under subsection A of this section may be accurate, the board may  
28 issue a complaint and hold a formal hearing pursuant to title 41, chapter 6,  
29 article 10 without first holding an informal interview if the probable  
30 violation involves one or more of the following:

31 1. Gross negligence.

32 2. Fraud, forgery, unsworn falsification, false swearing or perjury.

33 3. Three or more repeated offenses.

34 4. Conviction of a felony.

35 5. Conviction of an offense involving moral turpitude.

36 6. Incompetence.

37 7. Failing to comply with a board order or consent agreement.

38 8. Wilfully and without legal justification failing to furnish in a  
39 timely manner information necessary for the board to conduct an investigation  
40 under this chapter that has been requested or subpoenaed by the board.

41 ~~F. E.~~ E. The board shall serve on the licensee a notice fully setting  
42 forth the conduct or inability concerned and returnable at a hearing to be  
43 held before the board or an administrative law judge in not less than thirty  
44 days, stating the time and place of the hearing.

1        ~~G.~~ F. The board may require a mental and physical examination and  
2 make an investigation, including, if necessary, the issuance of subpoenas,  
3 the appointment of advisory committees, the employment of expert witnesses,  
4 the taking of depositions or otherwise, as may be required fully to inform  
5 itself with respect to the complaint.

6        ~~H.~~ G. A person may file a motion with the board for an expedited  
7 hearing pursuant to section 41-1092.05.

8        ~~I.~~ H. If the licensee wishes to be present at the hearing in person  
9 or by representation, or both, the licensee shall file with the board an  
10 answer to the charges in the complaint. The answer shall be in writing,  
11 verified under oath and filed within twenty days after service of the summons  
12 and complaint.

13        ~~J.~~ I. At the hearing held in compliance with subsection ~~F~~ E of this  
14 section, a licensee may be present in person together with any counsel and  
15 witnesses the licensee chooses.

16        ~~K.~~ J. The board shall issue subpoenas for witnesses it may need and,  
17 at the respondent's expense, for witnesses the respondent may request. All  
18 provisions of law compelling a person under subpoena to testify are  
19 applicable to a hearing held pursuant to this section.

20        ~~L.~~ K. The board shall serve every notice or decision under this  
21 article by any method reasonably calculated to effect actual notice on the  
22 board and every other party to the action to the party's last address of  
23 record with the board. Each party shall inform the board of any change of  
24 address within five days after the change.

25        ~~M.~~ L. A licensee who, after a hearing, is found to be guilty by the  
26 board of a violation of this chapter is subject to censure, probation or  
27 civil penalty as provided in subsection B of this section, suspension of  
28 license or revocation of license, or any combination of these, and for the  
29 period of time or permanently and under the conditions the board deems  
30 appropriate for the protection of the public health and safety and just in  
31 the circumstances. The board may charge the costs of formal hearings to the  
32 licensee who is in violation of this chapter.

33        ~~N.~~ M. The board shall issue a written decision within twenty days  
34 after the hearing is concluded. The written decision shall contain a concise  
35 explanation of the reasons supporting the decision. The board shall serve  
36 a copy of the decision on the licensee. On the licensee's request, the board  
37 shall also transmit to the licensee the record of the hearing.

38        ~~O.~~ N. Except as provided in this subsection, all materials, documents  
39 and evidence associated with a pending or resolved complaint or investigation  
40 are confidential and are not public records. The following materials,  
41 documents and evidence are not confidential and are public records if they  
42 are related to resolved complaints and comply with subsection A of this  
43 section:

44        1. The complaint.

45        2. The response and any rebuttal statements submitted by the licensee.

- 1           3. Written or recorded board discussions of the complaint.
- 2           4. Written reports of an investigation of a complaint.
- 3           5. Disposition of the complaint, including any written comments of the
- 4 board.

5           ~~P.~~ O. This section or any other law making communications between a  
6 licensee and the licensee's patient a privileged communication does not apply  
7 to investigations or proceedings conducted pursuant to this chapter. The  
8 board and its employees, agents and representatives shall keep in confidence  
9 the names of any patients whose records are reviewed during the course of  
10 investigations and proceedings pursuant to this chapter.

11          ~~Q.~~ P. Any action of the board shall be included in the minutes of the  
12 meeting at which the action is taken, including any determination by the  
13 board not to proceed under this section. The person reporting information  
14 to the board shall receive a copy of any final decision.

15          ~~R.~~ Q. Pursuant to sections 35-146 and 35-147, the board shall deposit  
16 civil penalties collected pursuant to this chapter in the state general fund.

17          ~~S.~~ R. A licensee who is the subject of a disciplinary action may  
18 request an informal settlement conference. The licensee must submit a  
19 request for an informal settlement conference to the board in writing. The  
20 board shall hold an informal settlement conference within fifteen days after  
21 it receives a request to do so from the licensee. Only a person with the  
22 authority to act on behalf of the board may represent the board at the  
23 informal settlement conference. The board representative shall notify the  
24 licensee in writing that any written or oral statement made by the licensee  
25 at the informal settlement conference, including statements for the purpose  
26 of settlement negotiations, are IS inadmissible in any subsequent hearing.  
27 A licensee who participates in an informal settlement conference waives the  
28 right to object to the participation of the board representative in the final  
29 administrative decision.

30          ~~T. A person who obtains information from the board pursuant to~~  
31 ~~subsection C of this section shall not release it to any other person or~~  
32 ~~entity or use it in any proceeding or action except the informal interview~~  
33 ~~and any administrative proceeding or appeals related to the informal~~  
34 ~~interview. The board may charge the licensee or the licensee's attorney for~~  
35 ~~the cost of the information listed in subsection C of this section up to the~~  
36 ~~fee for making a copy as prescribed by section 12-284, subsection A.~~

37          Sec. 4. Section 32-1746, Arizona Revised Statutes, is amended to read:  
38          32-1746. Records; maintenance; confidentiality

39          A. A licensee must allow the board to inspect patient records during  
40 normal business hours. Before a licensee may change the location of patient  
41 records, the licensee must file a signed statement with the board that  
42 discloses the new address where the licensee will maintain the records.

1 B. All patient records, examination materials, records of examination  
2 grading and performance and transcripts of educational institutions  
3 concerning applicants and licensees are confidential and are not public  
4 records.

5 ~~C. The board shall provide to the licensee and the licensee's attorney~~  
6 ~~the information listed in section 32-1744, subsection C. A person who~~  
7 ~~obtains information from the board pursuant to this subsection and section~~  
8 ~~32-1744, subsection C shall not release it to any other person or entity or~~  
9 ~~use it in any proceeding or action except the informal interview and any~~  
10 ~~administrative proceedings or appeals related to the informal interview.~~

11 Sec. 5. Title 32, chapter 32, article 1, Arizona Revised Statutes, is  
12 amended by adding section 32-3206, to read:

13 32-3206. Disciplinary action; information; disclosure

14 A. AT LEAST TEN BUSINESS DAYS BEFORE A DISCIPLINARY INTERVIEW OR A  
15 HEARING, IF THE BOARD DOES NOT HOLD A DISCIPLINARY INTERVIEW, THE HEALTH  
16 PROFESSION REGULATORY BOARD SHALL NOTIFY THE HEALTH PROFESSIONAL AND, AT THAT  
17 PERSON'S REQUEST, THE BOARD SHALL PROVIDE THE HEALTH PROFESSIONAL OR THE  
18 HEALTH PROFESSIONAL'S ATTORNEY WITH THE INFORMATION LISTED IN THIS  
19 SECTION. THE BOARD SHALL PROVIDE THE FOLLOWING INFORMATION:

20 1. ANY REVIEW CONDUCTED BY AN EXPERT OR CONSULTANT PROVIDING AN  
21 EVALUATION OF OR OPINION ON THE ALLEGATIONS.

22 2. ANY RECORDS ON THE PATIENT OBTAINED BY THE BOARD FROM OTHER HEALTH  
23 CARE PROVIDERS.

24 3. THE RESULTS OF ANY EVALUATIONS OR TESTS OF THE HEALTH PROFESSIONAL  
25 CONDUCTED AT THE BOARD'S DIRECTION.

26 4. ANY OTHER FACTUAL INFORMATION THAT THE BOARD WILL USE IN MAKING ITS  
27 DETERMINATION.

28 B. A PERSON WHO OBTAINS INFORMATION FROM THE BOARD PURSUANT TO THIS  
29 SECTION MAY NOT RELEASE IT TO ANY OTHER PERSON OR ENTITY OR USE IT IN ANY  
30 PROCEEDING OR ACTION EXCEPT THE DISCIPLINARY INTERVIEW AND ANY ADMINISTRATIVE  
31 PROCEEDINGS OR APPEALS RELATED TO THE DISCIPLINARY INTERVIEW. A PERSON WHO  
32 VIOLATES THIS SUBSECTION COMMITS AN ACT OF UNPROFESSIONAL CONDUCT.

33 C. THE BOARD MAY CHARGE THE HEALTH PROFESSIONAL OR THE HEALTH  
34 PROFESSIONAL'S ATTORNEY FOR THE COST OF PROVIDING THE INFORMATION RECEIVED  
35 UP TO THE FEE FOR MAKING A COPY OF EACH PAGE AS PRESCRIBED BY SECTION 12-284,  
36 SUBSECTION A.


APPROVED BY THE GOVERNOR MAY 6, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2002.

Passed the House April 29, 2002

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting


  
Speaker of the House


  
Chief Clerk of the House

Passed the Senate March 21, 2002

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

  
President of the Senate

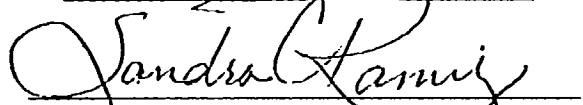
  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2002

at 11:27 o'clock A M.

  
Secretary to the Governor

Approved this 6<sup>th</sup> day of

May, 2002,

at 3:48 o'clock P M.

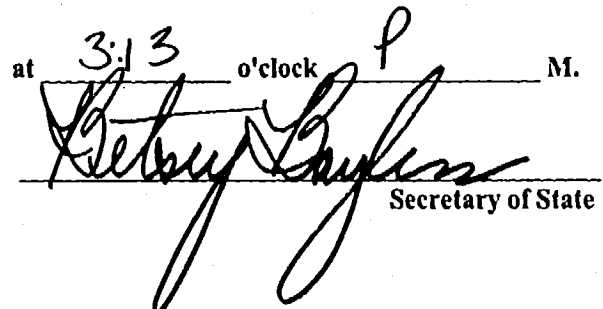
  
Governor of Arizona

S.B. 1191

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 7 day of May, 2002

at 3:13 o'clock P M.  
  
Secretary of State